IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2007

CORAM

THE HON'BLE MR.JUSTICE P.D.DINAKARAN
AND
THE HON'BLE MR.JUSTICE R.REGUPATHI

Habeas Corpus Petition No.917 of 2007

Vasanthi .. Petitioner

Vs.

1. The Secretary to Government
   Prohibition & Excise Department
   Fort St. George, Chennai 9.

2. The Commissioner of Police
   Chennai City Police
   Chennai. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Habeas Corpus for the relief stated therein.

For Petitioner : Mr.K.Gandhi Kumar
For Respondents : Mr.N.R.Elango
Additional Public Prosecutor

O R D E R

(Order of the Court was made by P.D.DINAKARAN,J.)

The petitioner, who is the wife of the detenu, Venkatesan, son of Natarajan, who was detained at Central Prison, Puzhal, Chennai, pursuant to the order of detention dated 31.5.2007 passed under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a Goonda, has filed this writ petition for issue of a Writ of Habeas Corpus to call for the records in connection with the order of detention dated 31.5.2007 passed by the second respondent in Memo No.226/BDFGISSV/2007 against her husband, to set aside the same and to direct the respondents to produce the detenu before this Court and set him at liberty.

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2. According to the detaining authority, viz., the second respondent, the ground case is said to have taken place on 6.4.2007 at about 9.30 hours. On receipt of reliable information, in respect of Crime No.816 of 2007 on the file of K1 Sembium Police Station for the offences punishable under Sections 147, 148, 341, 324, 307, 302 and 506(ii) IPC, the police personnel surrounded the detenu and one Tamilselvam @ Tamil, Venugopal @ Venu, Sugumar @ Sugu, Sridhar and Settu in front of Perambur thangal Cemetary, who threatened them at knife point by uttering filthy words. Further, they kicked the police on their abdomen, due to which the police personnel fell down. When the detenu and others tried to escape from the spot, the police personnel shouted and chased them. The public rushed to catch them. But, the detenu and others threatened the public at knife point and pelted stones by uttering filthy words. The public and the shopkeepers ran here and there fearing danger to their lives and properties. By their action, the detenu and others created panic. In the melee, the detenu and others escaped from the spot. A case was registered in Crime No.626 of 2007 under Sections 332, 323, 325, 336, 307 and 506(ii) IPC. The detenu was produced on P.T. Warrant on 27.4.2007 in Crime No.626 of 2007 and remanded to judicial custody.

3. The second respondent, taking note of the above case as a ground case and finding that there are two adverse cases pending against the detenu in Crime No.890 of 2006 on the file of K9 Thiru.Vi.Ka.Nagar Police Station for the offences punishable under Sections 147, 148, 448, 323, 427 and 506(ii) of I.P.C. and Crime No.816 of 2007 on the file of K1 Sembium Police Station for the offences punishable under Sections 147, 148, 341, 324, 307, 302 and 506(ii) of I.P.C. and having satisfied that there is a compelling necessity to detain him in order to prevent him from indulging in the activities which are prejudicial to the maintenance of public order, ordered his detention dubbing him as a Goonda.

4. Heard Mr.K.Gandhi Kumar, learned counsel for the petitioner and Mr.N.R.Elango, learned Additional Public Prosecutor for the respondents. We have perused the materials available on record.

5. The learned counsel for the petitioner challenges the impugned order of detention dated 31.5.2007 on the main ground of defective translation of the grounds of detention.
In the English version of the grounds of detention, it is stated in Paragraph (4) as under:

> "I am aware that Thiru Venkatesan is in remand in K9 Thiru.Vi.Ka. Nagar Police Station Crime No.626/2007 and K1 Sembium Police Station Crime No.816/07 and has moved bail application in K1

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Sembium Police Station Crime No.816/2007 before the Principal Sessions Court, Chennai in Crl.M.P. No.4190/2007 and the same was dismissed."

whereas in the vernacular translation of the grounds of detention, in paragraph (4), it is stated as under:

"திரு வெங்கடேசன் என்பவர் கே 9 திரு விக.நகர் காவல் நிலைய குற்ற எண் 626/07 மற்றும் கே 1 செம்பியம் காவல் நிலைய குற்ற எண் 816/07 ஆகிய வழக்குகளில் காவலில் உள்ளார் என்பதையும், அவர் ஜாமீன் கோரும் மனு ஒன்றை கே1 செம்பியம் காவல் நிலைய குற்ற எண் 816/07 வழக்கில் சென்னை, முதன்மை அமர்வு, நீதிமன்றம் முன்பாக குற்றப் பல்வகை மனு எண்.4190/07ல் தாக்கல் செய்து அது நிலுவையில் உள்ளது என்பதையும் நான் நன்கு அறிவேன்."

According to the learned counsel, in view of the above defective translation, the detenu was not in a position to make an effective representation and hence the order of detention vitiates.

6. In the instant case, as rightly pointed out by the learned counsel for the petitioner, there is a contradiction between the English version and Tamil version of paragraph (4) referred to above. In the English version, it is stated that the detenu has moved bail application in K1 Sembium Police Station Crime No.816 of 2007 before the Principal Sessions Court, Chennai in Crl.M.P.No.4190 of 2007 and the same was dismissed, but in the Tamil version, it is stated that he has filed a bail application before the Principal Sessions Court, Chennai in Crl.M.P.No.4190 of 2007 for K1 Sembium Police Station Crime No.816 of 2007 and the same is pending.

7. In view of the above contradiction in the grounds of detention, the detenu was not able to make an effective representation. The order of detention is therefore vitiated. This petition must succeed and the same is ordered as prayed for. The detention order dated 31.5.2007 is set aside. The detenu is directed to be set at liberty forthwith unless his custody is required in connection with any other case.

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Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

ATR

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To:

1. The Secretary to Government
   Prohibition and Excise Department
   Fort St. George, Chennai-9.

2. The Commissioner of Police
   Chennai City Police
   Chennai.

3. The Superintendent,
   Central Prison,
   Puzhal, Chennai.

4. The Public Prosecutor,
   High Court, Madras.

5. The Joint Secretary to Government of Tamilnadu
Public (Law and order)
Department, Fort St. George, Chennai-9.

H.C.P.No.917 of 2007

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